



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

JRE

Docket No: 706-99

23 October 2000

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your late son's naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your son's naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board carefully considered the contentions and supporting evidence to the effect that your son's mental illness occurred during his naval service, but found it insufficient to warrant any corrective action. The Board noted that a discharge by reason of misconduct generally takes precedence over, and precludes, disability processing. In addition, a service member may be separated or retired by reason of physical disability only in those cases where the member has been found unfit to perform the duties of his office, grade, rank or rating by reason of physical disability. It was not persuaded that the acts of misconduct which resulted in his discharge for the good of the service in lieu of trial by court-martial were the product of a severe mental disorder, or that he lacked mental responsibility when he committed the offenses.

In the absence of evidence which demonstrates that his discharge was improper, and that he was unfit for duty at the time of his discharge, there is no basis for granting your request. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director